



GENERAL SERVICES ADMINISTRATION

48 CFR Part 552

[GSAR Change 89; GSAR Case 2016-G506; Docket No. 2016-0016; Sequence No.2]

RIN 3090-AJ75

General Services Administration Acquisition

Regulation (GSAR); Federal Supply Schedule, Order-Level Materials; Technical Amendment

AGENCY: Office of Acquisition Policy, General Services Administration (GSA).

ACTION: Final rule.

SUMMARY: GSA is amending the General Services Administration Regulation (GSAR) to clarify the text regarding the application of the threshold for order-level materials (OLMs).

DATES: Effective: **[INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

FOR FURTHER INFORMATION CONTACT: Ms. Leah Price, GSA Acquisition Policy Division, Senior Policy Advisor, at leah.price@gsa.gov. For information pertaining to status or publication schedules, contact the Regulatory Secretariat Division at 202-501-4755. Please cite GSAR Case 2016-G506.

SUPPLEMENTARY INFORMATION:

I. Background

GSAR Case 2016-G506; Federal Supply Schedule, Order-Level Materials, was published in the Federal Register at 83 FR 3275, on January 24, 2018. Since then, clarification is required regarding the application of the 33.33 percent threshold of order-level materials (OLMs) for task or delivery orders and orders against Federal Supply Schedule (FSS) BPAs awarded under FSS contracts at GSAR 552.238-82(d)(4).

II. Discussion of Changes

GSAR clause 552.238-82(d) Special Ordering Procedures for the Acquisition of Order-Level Materials prescribes procedures for including OLMs when placing an order against a Federal Supply Schedule (FSS) contract or FSS BPA. The procedures at d(4) of the clause require that the value of OLMs in an order awarded under a FSS contract or FSS BPA shall not exceed 33.33 percent of the total value of the order. The text at d(4) of the clause is being amended to clarify the applicability of the 33.33 percent threshold on OLMs placed in a task or delivery order or the cumulative value of OLMs in orders against an FSS BPA awarded under a FSS contract. There are no significant content changes resulting from this technical amendment.

III. Public comments not required.

41 U.S.C. 1707, Publication of proposed regulations, applies to the publication of the General Services Administration Acquisition Regulation. Paragraph (a)(1) of the statute requires that a procurement policy, regulation, procedure, or form (including amendment or modification thereof) must be published for public comment if it has either a significant effect beyond the internal operating procedures of the agency issuing the policy, regulation, procedure, or form, or has a significant cost or administrative impact on contractors or offerors. This final rule is not required to be published for public comment because it contains minor editorial updates without changing the meaning of content. The changes do not have a significant impact on the public.

IV. Executive Orders 12866 and 13563

Executive Orders (E.O.s) 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives; and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). E.O. 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This is not a significant

regulatory action and, therefore, was not subject to review under Section 6(b) of E.O. 12866, Regulatory Planning and Review, dated September 30, 1993. This rule is not a major rule under 5 U.S.C. 804.

V. Executive Order 13771

The General Services Administration certifies that this final rule will not have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, et seq., because this editorial change does not have a significant impact on the public or Government.

VI. Regulatory Flexibility Act

The Regulatory Flexibility Act does not apply to this rule because this final rule does not constitute a significant GSAR revision and 41 U.S.C. 1707 does not require publication for public comment.

VII. Paperwork Reduction Act

This final rule does not contain any information collection that requires additional approval of the Office of Management and Budget under the Paperwork Reduction Act (44 U.S.C. Chapter 35).

List of Subjects in 48 CFR Part 552

Government procurement.

Dated: August 10, 2018

Jeffrey A. Koses,
Senior Procurement Executive,
General Services Administration.

Therefore, GSA amends 48 CFR part 552 as set forth below:

PART 552—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

1. The authority citation for 48 CFR part 552 continues to read as follows:

Authority: 40 U.S.C. 121(c).

2. Amend section 552.238-82 by revising paragraph (d)(4) to read as follows:

552.238-82 Special Ordering Procedures for the Acquisition of Order-Level Materials.

* * * * *

(d) * * *

(4) The value of order-level materials in a task or delivery order, or the cumulative value of order-level materials in orders against an FSS BPA awarded under a FSS contract shall not exceed 33.33 percent.

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